

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**NOEL A. YANNESSA, M.D.**

Holder of License No. 5413  
For the Practice of Allopathic Medicine  
In the State of Arizona

Case No. MD-05-1202D

**CONSENT AGREEMENT FOR  
LETTER OF REPRIMAND**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Noel A. Yannessa, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement of any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other  
2 pending or future investigation, action or proceeding. The acceptance of this Consent  
3 Agreement does not preclude any other agency, subdivision or officer of this State from  
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject  
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this  
7 matter and any subsequent related administrative proceedings or civil litigation involving  
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
9 or made for any other use, such as in the context of another state or federal government  
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof) to  
13 the Board's Executive Director, Respondent may not revoke the acceptance of the  
14 Consent Agreement. Respondent may not make any modifications to the document. Any  
15 modifications to this original document are ineffective and void unless mutually approved  
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not  
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes  
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will  
21 be publicly disseminated as a formal action of the Board and will be reported to the  
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise  
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force  
25 and effect.

1           11. Any violation of this Consent Agreement constitutes unprofessional conduct  
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[V]iolating a formal order,  
3 probation, consent agreement or stipulation issued or entered into by the board or its  
4 executive director under this chapter") and 32-1451.

5  
6 Noel A. Yannesssa MD  
7 NOEL A. YANNESSA, M.D.

DATED: 12-21-06

## FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 5413 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-05-1202D after receiving notification of a malpractice settlement involving Respondent's care and treatment of a fifty-five year-old female patient ("JD").

4. On November 28, 2003 at 10:05 p.m. JD presented to the emergency room complaining of progressive lower extremity numbness and tingling. The emergency room physician ordered a magnetic resonance imaging ("MRI") scan of the "thoracic spine from 8 down through L-5 spine" and performed a spinal tap. The MRI was essentially normal and the spinal tap revealed increased protein. A neurologist ("Neurologist") examined JD and diagnosed post infectious transverse myelitis.

5. On December 3, 2003 JD showed mild improvement, but at 3:15 a.m. she complained of severe pain in her left shoulder and shooting spasms throughout her body. The nurse noted JD "was unable to sit up and had to be lifted up in bed" and at 6:00 a.m. noted JD experienced "new hand numbness." At 8:00 a.m. JD "lost ability to feel or move her lower extremities." The nurse contacted Neurologist and informed her of JD's condition. Neurologist ordered a STAT MRI of JD's entire spine and contacted the neuroradiologist ("Neuroradiologist") and told him JD's condition had become emergent because she suspected a disc herniation and that JD may need surgery. The MRI was completed at 2:46 p.m.

6. Respondent reviewed the MRI at 5:00 p.m. with the understanding that Neuroradiologist and Neurologist were looking for an inflammatory process. Respondent's

1 initial reading was a "possible cervical cord compression by a possible subluxation of C5-6  
2 and also disc disease." Respondent requested JD undergo additional MRI sequences of  
3 the cervical spine, including the sagittal T2, because the images he was viewing were  
4 taken under a Guillain-Barre study centering on images of the thoracic and lumbar spine,  
5 not the cervical spine, making them hard to read. Respondent left a message on  
6 Neurologist's answering machine requesting the additional MRI sequences, but did not  
7 make any further attempt to personally notify Neurologist. JD underwent a subsequent  
8 MRI at 10:14 p.m., but the films were not read by a radiologist or available to Neurologist  
9 until the next day.

10 7. On December 4, 2003 at 1:40 a.m. Neurologist performed a lumbar  
11 puncture. At 8:45 a.m. Neurologist reviewed the MRI performed at 10:14 p.m. the night  
12 before and noted a disc herniation in the lower C-spine area with cord edema that was not  
13 noted on Respondent's report. JD underwent emergency surgery for the disc herniation at  
14 11:00 a.m. By that time, JD had suffered approximately thirty-two hours of paraplegia  
15 resulting in permanent severe cord injury and disability.

16 8. The standard of care requires a physician to detect on an MRI an obvious  
17 significant pathology of the cervical, thoracic and lumbar spine.

18 9. Respondent deviated from the standard of care because he failed to detect a  
19 large ventral extradural lesion consistent with a C6-7 disc extrusion, extending from  
20 superior C6 to inferior C7 on the December 3, 2003 MRI. Respondent failed to detect  
21 severe spinal cord compression centered at C6-7 due to disc extrusion.

22 10. Respondent's delay in diagnosis delayed treatment of JD's acute spinal cord  
23 injury resulting in permanent injury.

1 CONCLUSIONS OF LAW

2 1. The Board possesses jurisdiction over the subject matter hereof and over  
3 Respondent.

4 2. The conduct and circumstances described above constitute unprofessional  
5 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be  
6 harmful or dangerous to the health of the patient or the public") and A.R.S. § 32-1401  
7 (27)(II) ("[c]onduct that the board determines is gross negligence, repeated negligence or  
8 negligence resulting in harm to or the death of a patient.").

9 ORDER

10 IT IS HEREBY ORDERED THAT:

11 1. Respondent is issued a Letter of Reprimand for failure to detect an obvious  
12 significant pathology of the cervical, thoracic and lumbar spine on an MRI

13 2. This Order is the final disposition of case number MD-05-1202D.

14 DATED AND EFFECTIVE this 9<sup>th</sup> day of February, 2007.

15  
16 (SEAL)



ARIZONA MEDICAL BOARD

17  
18 By [Signature]

19 TIMOTHY C. MILLER, J.D.  
Executive Director

20 ORIGINAL of the foregoing filed  
21 this 9<sup>th</sup> day of February, 2007 with:

22 Arizona Medical Board  
23 9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

24 EXECUTED COPY of the foregoing mailed  
25 this 9<sup>th</sup> day of February, 2007 to:

Noel A. Yannessa, M.D.  
Address of Record

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Investigational Review

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